

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

FAIR ISAAC CORPORATION, a)	Case No. 16-cv-1054 (WMW/DTS)
Delaware corporation,)	
)	
Plaintiff,)	
)	
v.)	
)	
FEDERAL INSURANCE COMPANY,)	
an Indiana corporation, and ACE)	
AMERICAN INSURANCE)	
COMPANY, a Pennsylvania)	
corporation,)	
)	
Defendants.)	

**DECLARATION OF HEATHER J. KLIEBENSTEIN IN SUPPORT OF
PLAINTIFF FAIR ISAAC CORPORATION'S MEMORANDUM IN
OPPOSITION TO DEFENDANTS' MOTION TO COMPEL**

I, Heather J. Kliebenstein, declare as follows:

1. I am a partner with Merchant & Gould P.C., and I am one of the attorneys of record for Plaintiff Fair Isaac Corporation in the above captioned matter.
2. I make this declaration on my own information, knowledge, and belief in support of Plaintiff's Memorandum in Opposition to Defendants' Motion to Compel.
3. On February 20, 2019, Federal served its Third Set of Interrogatories, containing nine (9) interrogatories, and its Fourth Set of Requests for Production, containing twelve (12) document requests.

4. FICO served its Third Rule 30(b)(6) Notice on March 4, 2019. Federal did not provide a witness in response to FICO's Third Rule 30(b)(6) Notice until March 25, 2019, due to Federal's counsel being unavailable during the discovery period.

5. Federal scheduled two Rule 30(b)(6) depositions on March 22 and April 2, 2019. The timing of these depositions was due to Federal's unavailability during the discovery period.

6. Prior to the March 22nd and April 2nd depositions, Federal had taken 8 hours, 5 minutes of testimony on the same Rule 30(b)(6) notice. After the two last-minute depositions, the total is 23 hours, 40 minutes of testimony under one notice.

7. Attached hereto as Exhibit 1 is a true and correct copy of FICO's standard pricing matrix produced as bates numbered document FICO0000830 on August 2, 2017. This document is filed under seal.

8. Attached hereto as Exhibit 2 is a true and correct copy of Deposition Exhibit No. 223 to the January 16, 2019 deposition of William Waid. This document is filed under seal.

9. Attached hereto as Exhibit 3 is a true and correct copy of the January 16, 2019 deposition transcript of William Waid. This document is filed under seal.

10. Attached hereto as Exhibit 4 is a true and correct copy of the April 2, 2019 deposition transcript of William Waid. This document is filed under seal.

11. Attached hereto as Exhibit 5 is a true and correct copy of Plaintiff Fair Isaac Corporation's Answers to Defendants' Second Set of Interrogatories, dated January 28, 2019. This document is filed under seal.

12. Attached hereto as Exhibit 6 is a true and correct copy of a March 18, 2019 letter from FICO's counsel Heather Kliebenstein to Federal's counsel Leah Janus.

13. FICO produced its support log years ago in this litigation. *See* FICO0000197.

14. FICO amended its response and added 6 additional licensees on April 1, 2019. FICO produced the agreements with these licensees on May 1, 2018, with the exception of the Siemens licenses produced on April 1, 2019.

15. Attached hereto as Exhibit 7 is a true and correct copy of an April 2, 2019 email from Federal's counsel to FICO's counsel.

16. Attached hereto as Exhibit 8 is a true and correct copy of Defendant's First Set of Interrogatories to Fair Isaac Corporation, dated April 18, 2017.

17. Attached hereto as Exhibit 9 is a true and correct copy of Plaintiff's Fourth Supplemental Initial Disclosures, dated March 15, 2019.

18. Counsel for FICO with counsel for Federal on Friday, March 29, 2019, regarding several discovery disputes. In this call, counsel for FICO offered to conduct a reasonable search and produce responsive, non-privileged, relevant communications surrounding discussions with the licensees identified in its response to Interrogatory No. 20. This offer was reiterated in an email on April 3, 2019.

19. Attached hereto as Exhibit 10 is a true and correct copy of that April 3, 2019 email from FICO's counsel to Federal's counsel.

20. Attached hereto as Exhibit 11 is a true and correct copy of the March 22, 2019 deposition transcript of Thomas Carretta. This document is filed under seal.

21. Merchant & Gould reviewed its production and confirmed that Federal received production documents duplicative to privilege log entries 309, 312, 314, 652, 654, 663 and 664.

22. Privilege Log Entry No. 655 is a standalone privilege document generated by the FICO legal department and relates to Chubb.

Dated: April 12, 2019

/s/ Heather J. Kliebenstein
Heather J. Kliebenstein